IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 24789 of 2007(A)

AGAINST THE ORDER DATED 31/05/2007 IN IA 5 / 2007 IN LAR.2/2003 of SUB COURT, HOSDRUG

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PETITIONER:

T.V.KARUTHAKUNHI, AGED 55 YEARS,
RESIDING AT PADNAKKAT IN KANHANGAD VILLAGE,
HOSDURG TALUK, KASARAGODE DISTRICT.

BY ADV. SRI.V.RAJENDRAN
SRI.P.SAMSUDIN

RESPONDENT:

THE SPECIAL TAHSILDAR (LA), KASARAGOD.

BY GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.24789 OF 2007

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Dated this the 17h day of August 2007

JUDGMENT

This writ petition is preferred against the order of the Land Acquisition Court in L.A.R No.2 of 2003. An interim application was filed under Order IX Rule 9 C.P.C. and Section 151 C.P.C.. It is settled principle of law that the Land Acquisition court cannot dismiss any matter for default but it has to answer the reference. So Order IX Rule 9 which deals with matters of restoration is really not applicable to the proceedings at all. Unfortunately the court below has considered the matter elaborately and dissatisfied with the evidence adduced and dismissed the case. It has been laid down in the decision that even if the party is absent, the court is expected to apply its mind and pass orders accordingly. That has not been done in the case.

Therefore interest of justice requires interference and therefore the court below is directed to restore L.A.R.2 of 2003 and dispose of the matter in accordance with law after permitting the writ petitioner as well as the

Government to adduce evidence in support of their respective contentions.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-